

Counsel and self-represented litigants should be familiar with the California Rules of Court, especially the Appellate Rules. (See Cal. Rules of Court, rule 8.1 et seq.) These local rules are intended to highlight practices unique to the First Appellate District and to emphasize portions of the Rules of Court that the court considers to be most important.

Rule 1. Obligation of Superior Court Clerk to Prepare and File Docketing Statements in Certain Criminal, Juvenile, Dependency, and Family Matters

(a) [Docketing Statements] In all criminal appeals, juvenile appeals from proceedings arising under Welfare and Institutions Code sections 300, 601, or 602, in all writ proceedings challenging orders entered under Welfare and Institutions Code sections 366.26 and 366.28, and in proceedings under Family Code section 7800, the clerk of the superior court must, upon the filing of a notice of appeal or notice of intent to file a writ petition, prepare a docketing statement and promptly forward it to this court with (1) the notice of appeal or notice of intent to file a writ petition, and (2) a copy of the abstract of judgment, minutes, or order being appealed or challenged by writ.

(b) [Forms] The following forms of docketing statements shall be used:

(1) Docketing Statement for Criminal Notice of Appeal

(2) Docketing Statement for Juvenile Notice of Appeal and Juvenile Notice of Intent to File Writ Petition

These forms are available on the court's website at:

<<http://www.courts.ca.gov/1954.htm>>.

(c) [Sanctions] The failure of a superior court clerk to file a docketing statement as required by this rule may result in the imposition of sanctions.

Rule 2. Extensions of Time for Superior Court Clerk or Court Reporter to Prepare Transcripts.

(a) [Extension of Time for Clerk's Transcript] A clerk's request for an extension of time to prepare a clerk's transcript on appeal will not be granted without a showing of good cause.

(b) [Extension of Time for Reporter's Transcript] A court reporter's request for an extension of time to file the reporter's transcript will not be granted without a showing of good cause and the approval of the Presiding Judge, or other duly authorized judge, of the superior court.

(1) Automatic Extension in Certain Criminal Appeals. Court reporters are granted one automatic extension of time of 30 days to prepare and file the reporter's transcript where the defendant appeals from a criminal judgment of conviction after trial. Thus, the reporter's transcript is due within 50 days of the filing of the notice of appeal. (See Cal. Rules of Court, rule 8.336.) This rule does not apply whenever the People appeal, or when a defendant appeals from the following:

- a postjudgment order;
- a judgment entered on a plea of not guilty or nolo contendere;
- a judgment pronounced on resentencing after remand from the appellate court;
- an order revoking probation or a judgment entered after the revocation of probation; and
- an order extending a defendant's term of commitment to a state hospital.

In these cases, the reporter's transcript is due no more than 20 days after the notice of appeal is filed. (See Cal. Rules of Court, rule 8.336(d)(3).)

(2) Automatic Extension in Certain Civil Appeals. Court reporters are granted one automatic extension of time of 30 days to prepare and certify the reporter's transcript where a party appeals from a civil judgment entered after trial by jury or by the court. Thus, the reporter's transcript must be prepared and certified within 60 days after the notice is sent in accordance with California Rules of Court, rule 8.130(d)(2). (See Cal. Rules of Court, rule 8.130(f)(1).) This rule does not apply when a party appeals from the following:

- a postjudgment order;
- a summary judgment;
- a judgment of dismissal after the sustaining of a demurrer without leave to amend;

- a default judgment;
- a judgment of dismissal for failure to proceed in a timely manner;
- any other appealable pretrial order; and
- an order declaring a minor free from the custody and control of his or her parents.

In these cases, the reporter's transcript is due no more than 30 days after the notice is sent in accordance with California Rules of Court, rule 8.130(d)(2). (See Cal. Rules of Court, rule 8.130(f)(1).)

(3) **Juvenile Proceedings.** Court reporters are not granted an automatic extension of time in appeals and writs from orders or judgments in juvenile proceedings. (Welf. & Inst. Code, §§ 300 et seq., 601, 602.)

In juvenile appeals, the reporter's transcript is due no more than 20 days after the notice of appeal is filed. (See Cal. Rules of Court, rules 8.409(c), 8.416(c)(1).) In juvenile writ proceedings under Welfare and Institutions Code sections 366.26 and 366.28, the reporter's transcript is due 12 calendar days after the notice of intent is filed. (See Cal. Rules of Court, rules 8.450(h)(1), 8.454(h)(1).)

(c) [Reporter Defaults] If a court reporter fails to timely file the reporter's transcript, this court may issue an order directing the court reporter to show cause why he or she should not be declared incompetent to act as an official reporter, under the provisions of section 69944 of the Government Code.

(d) [Sanctions] Sanctions may be imposed upon a clerk who fails to timely file a clerk's transcript, or upon a court reporter who fails to timely file a reporter's transcript. (See Cal. Rules of Court, rule 8.23.)

(e) [Forms] A clerk's request for an extension of time to file a clerk's transcript on appeal shall be substantially in the form of the Clerk's Affidavit and Order for Extension of Time to File Transcript on Appeal. A reporter's request for an extension of time to file the reporter's transcript shall be substantially in the form of the Reporter's Affidavit and Order for Extension of Time to File Transcript on Appeal. These forms are available on the court's website at: <<http://www.courts.ca.gov/1954.htm>>.

Rule 3. Obligation of Court Reporters to Include Transcripts of Specified Proceedings in Criminal and Juvenile Delinquency Appeals

In addition to the transcripts designated in the California Rules of Court, transcripts of the following proceedings should be included as part of the record in appeals in criminal and juvenile delinquency cases:

(a) [Proceedings on Defense Motions] Reporter's transcripts of the proceedings held on all defense motions that were denied, in whole or in part, including but not limited to the following:

- motions to suppress identification of the defendant;
- motions to suppress evidence;
- motions to exclude evidence of defendant's prior offenses or other conduct;
- motions to suppress defendant's statements (e.g. *Miranda v. Arizona* (1966) 384 U.S. 436);
- motions to permit or preclude impeachment of defendant or witness with prior offenses;
- motions to determine defendant's competence;
- motions for severance or joinder;
- motions to change venue;
- motions for the discovery of police officer records (*Pitchess v. Superior Court* (1974) 11 Cal.3d 531);
- motions for self-representation (*Faretta v. California* (1975) 422 U.S. 806);
- motions in limine;
- motions to terminate or replace defense counsel under *People v. Marsden* (1970) 2 Cal.3d 118. When provided in paper format, an original and two copies of the sealed transcript shall accompany the record upon certification and delivery to this court. When provided in electronic format, a separately saved file containing only the confidential *Marsden* transcript shall be provided. The court will provide appellant's counsel with a copy of the transcript. If appellant raises a *Marsden* issue, a copy of the transcript will then be provided to the Attorney General in the manner prescribed in California Rules of Court, rule 8.47(b)(2).

(b) [Proceedings on Prosecution Motions] Reporter's transcripts of the proceedings held on the following prosecution motions should be included as part of the record when the motion was *granted* in whole or in part:

- motions for joinder;
- motions to impeach the defendant with prior offenses;
- motions for admission of defendant's prior offenses or conduct.

(c) [Revocation of Probation—Plea Proceedings] Transcripts of the hearings held on the following proceedings should be included as part of the record in appeals from decisions to revoke probation:

- the original sentencing proceeding at which probation was imposed;
- the proceedings at the time of entry of a guilty plea or nolo contendere plea if the original judgment of conviction is based on such plea; and
- the proceedings at which probation is revoked and the defendant is sentenced.

(d) [In Camera Hearings] Transcripts of hearings held in camera or under seal shall be transmitted to this court only, and no sealed copies shall be provided to counsel for either party except on application to and approval by this court. When provided in paper format, an original and two copies of the sealed transcript shall accompany the record upon certification and delivery to this court. When provided in electronic format, a separately saved file containing only the confidential transcript shall be provided.

Rule 4. Augmentations of the Record

(a) **[General Principles]** Parties shall limit their augmentation requests to material that was filed or lodged in the trial court. Augmentation cannot be used to add material to the record on appeal that is outside of the superior court's record. (See, e.g., *Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 444, fn. 3.)

(b) **[Items Inadvertently Omitted]** If a party realizes that a required or designated item has been omitted from the record, the party shall, in accordance with California Rules of Court, rules 8.155(b), 8.340(c), or 8.410(b)(1), file a notice in the superior court requesting that the item be prepared, certified, and sent to this court. Such a notice should not be filed in this court in the first instance. In criminal and juvenile cases, if a superior court clerk or reporter realizes after a record has been certified that a required or designated item was omitted, the clerk or reporter shall, without the need for a court order, promptly prepare, certify, and send the item to this court in accordance with California Rules of Court, rules 8.340(b) and 8.410(a).

(c) **[Time for Seeking Augmentation in this Court]** Any motion filed in this court to augment a record shall be submitted on the earliest date practicable. Appellant should file any such request in one motion filed no later than 30 days after the record has been filed in this court, except in certain juvenile dependency appeals or writs that have a shorter deadline. (See Cal. Rules of Court, rules 8.416(d)(2), 8.452(e)(2), 8.456(e)(2).) Respondent should file any such request in one motion made within 30 days of the filing of appellant's opening brief. Thereafter, motions to augment will be considered only upon a showing of good cause.

(1) In cases in which the appellant or petitioner is represented by the First District Appellate Project, any request for an augmentation of the record shall be made within 30 days after the expiration of the 10-day administrative-review period.

(d) **[Clerk's Transcript]** A motion to augment the clerk's transcript must be accompanied by the proposed augmented document or identify the proposed document with specificity. The record can be augmented only with documents that were filed or lodged in the superior court. A motion to augment shall be accompanied by a declaration stating that the document was so filed or lodged.

(e) **[Reporter's Transcript]** A motion to augment the reporter's transcript shall identify with specificity the portion of the proceeding sought to be included in the appellate record, the name of the reporter and his or her CSR number if available, and the date or dates of the proceeding. Any such motion shall explain why the transcript may be useful for the appeal. Requests for transcripts of a jury voir dire must be specific and be limited to only the portion of the proceeding that may be useful for the appeal.

(f) [Good Faith Required] Repeated motions to augment are strongly disfavored. A motion to augment shall be made in good faith and shall not be made for the purpose of delay. A motion filed on or close to the date a brief is due may raise an inference that it was filed for the purpose of delay.

Rule 5. Parties' Stipulation to Use Original Superior Court File as the Appellate Record.

The procedures set forth in California Rules of Court, rule 8.128 allowing the parties to stipulate to using the original superior court file in lieu of the clerk's transcript are approved for use by the superior courts in this district in all civil cases in which the trial court retains no continuing jurisdiction. Any stipulation under this rule shall be substantially in the form of the Stipulation for Use of Original Superior Court File in Lieu of Clerk's Transcript, which is available on the court's website at:
<<http://www.courts.ca.gov/1954.htm>>.

Rule 6. Requests for Judicial Notice

(a) **[Form of Request]** Requests for judicial notice must comply with California Rules of Court, rule 8.252.

(b) **[Deferral of Ruling]** If a request for judicial notice is filed at the same time as the moving party's brief, or if the court has deferred ruling on a request for judicial notice, the parties may rely on the item sought to be judicially noticed in their briefs. If the court subsequently denies the request, however, it will not consider any such item in rendering its decision.

Rule 7. Motions to Consolidate

Motions to consolidate appeals must include a statement indicating whether the other party or parties agree with the proposed consolidation.

Rule 8. Notification of Settlement or Basis for Early Resolution

Parties shall notify the court as soon as possible when discussions between the parties suggest a reasonable likelihood the case may settle. (See Cal. Rules of Court, rule 8.244.) Likewise, parties shall notify the court as soon as possible if there is any basis for an early dismissal of the appeal. Unless and until the appeal is dismissed, the parties remain obligated to file briefs in a timely fashion and to complete all other tasks that are required by the rules of court. Parties may ask the court that any notice filed under this rule not appear on the public docket.

Rule 9. Settlement Conferences in Civil Appeals

(a) **[Application of Rule]** This rule applies to all appeals in civil cases except appeals from proceedings under sections 601 and 602 of the Welfare and Institutions Code, appeals arising in proceedings involving jurisdiction over an abused or neglected child or to establish or terminate parental rights, and appeals from original proceedings ancillary to a criminal prosecution.

(b) [Request or Order for Settlement Conference]

(1) A settlement conference will be scheduled if requested in writing by counsel for all parties to the appeal. The request may be made at any time prior to the close of briefing and shall be addressed to the court's Clerk/Executive Officer. A request by counsel for any party that states all other parties join in the request is adequate for this purpose.

(2) At any time during the pendency of an appeal, the panel to which the appeal has been assigned may order a settlement conference even though none was requested.

(3) The pendency of settlement proceedings will not suspend preparation of the appellate record or briefing, unless the court has granted an extension of time or the parties have stipulated to an extension of time as provided in the California Rules of Court.

(c) [The Settlement Conference]

(1) A justice selected by the court from outside the division to which the appeal is assigned shall preside over the settlement conference. The Settlement Conference Justice will notify the parties of the date and time of the conference. All subsequent communications regarding the settlement conference shall be directed to the Settlement Conference Justice and shall not be entered in the court file. The Settlement Conference Justice may conduct the conference as he or she deems appropriate.

(2) All parties and their counsel of record must attend all settlement conference sessions in person with full settlement authority. If the party is not an individual, a party representative with full authority to settle all appeals and cross-appeals must attend all settlement conference sessions in person, in addition to counsel. If a party has potential insurance coverage applicable to any of the issues in dispute, a representative of each insurance carrier whose policy may apply must also attend all settlement conference sessions in person, with full settlement

authority. Any party seeking an exception to these requirements must seek and obtain advance approval by the Settlement Conference Justice.

The Settlement Conference Justice may invite participation by any additional person or entity if he or she concludes that such participation would facilitate settlement.

(d) [Implementation of Settlement Agreements] The parties and their counsel shall promptly take the steps necessary to implement the agreements reached at the settlement conference. An appellant who has settled must immediately serve and file a notice of settlement in this court and thereafter seek abandonment or dismissal of the appeal as provided in California Rules of Court, rule 8.244.

(e) [Confidentiality] Except as otherwise required by law, information disclosed to the Settlement Conference Justice, the parties, counsel, or any other participant in the settlement conference shall be confidential and shall not be disclosed to anyone not participating in the settlement conference.

(f) [Appellate Process] Parties and counsel shall comply with all rules applicable to processing appeals while concurrently participating in settlement activities under this rule.

(g) [Sanctions] Monetary sanctions may be imposed by the Settlement Conference Justice or the Administrative Presiding Justice for failure to comply with these rules.

Rule 10. Motions for Stipulated Reversal of Judgment

A stipulated motion to reverse or vacate a duly entered judgment will be considered only if it satisfies the requirements of Code of Civil Procedure section 128, subdivision (a)(8).

Such a motion must be accompanied by a copy of the judgment and a joint declaration by the parties or their counsel that:

- (a) describes the parties and the factual and legal issues presented at trial;
- (b) indicates whether the judgment involves important public rights or unfair, illegal or corrupt practices, or torts affecting a significant number of people, or otherwise affects a significant number of people who are not parties to the litigation;
- (c) discloses whether the judgment exposes any person who is a state licensee to a possible disciplinary proceeding; and
- (d) discloses whether the judgment may have collateral estoppel or other effects in potential future litigation and, if so, whether third parties who might be prejudiced by stipulated reversal of the judgment have received notice of the motion.

Rule 11. Extensions of Time for Filing Briefs

(a) [Procedure] The deadlines for filing briefs in civil, criminal, and juvenile appeals are specified in the California Rules of Court. In civil cases, the parties may stipulate to extend the time for filing each brief not more than 60 days. In criminal proceedings, extensions of time by stipulation are not allowed. (See, e.g., Cal. Rules of Court, rule 8.360(c)(4).) Extensions of time will be granted by the court only on a showing of good cause. (See *id.*, rule 8.60(b).) In certain juvenile proceedings, extensions of time may be granted only on an exceptional showing of good cause. (See, e.g., *id.*, rules 8.416(f), 8.450(d), 8.454(d).) The factors the court considers when evaluating whether an applicant for an extension of time has shown good cause or has made an exceptional showing of good cause are identified in California Rules of Court, rule 8.63(b).

An application for an extension of time to file a brief is not necessary, either before or after a default notice is issued under the California Rules of Court, if the brief can be and is filed within the pertinent default period. The clerk shall accept such a brief as timely filed.

(b) [Forms] An application for an extension of time to file a brief shall be substantially in the form of one of the following:

(1) Application for Extension of Time to File Brief (Civil Case) (Judicial Council Forms, form APP-006.)

(2) Application for Extension of Time to File Brief (Criminal Case) (Judicial Council Forms, form CR-126.)

(3) Application for Extension of Time to File Brief (Juvenile Case) (Judicial Council Forms, form JV-816.)

These forms are available on the court's website at:
<<http://www.courts.ca.gov/1954.htm>>.

(c) [Automatic Extension for Omitted Record] If a party asks the superior court to prepare an omitted part of the record under California Rules of Court, rules 8.155(b), 8.340(b), or 8.410(a), and provides this court with notice of the request, the deadline for filing the party's brief shall be automatically extended by 15 days from the date the omitted part of the record is filed. This extension shall not shorten any other extensions of time that are granted.

Rule 12. Electronic Filing

All filings are to be made through the Court's electronic filing system (EFS) operated by ImageSoft TrueFiling (TrueFiling). Use of the EFS system is mandatory for all attorneys filing in this District, unless an exemption is granted, and is voluntary for all self-represented litigants. A filing in electronic format will be accepted in lieu of any paper copies otherwise required under California Rules of Court, rule 8.44, and constitutes the official record of the Court.

(a) [Registration]

(1) **Obligation to Register.** Each attorney of record in any proceeding in this District is obligated to become an EFS user and obtain a user ID and password for access to the TrueFiling system. Self-represented litigants must register if they wish to e-file. Attorneys and self-represented litigants may register at: <https://tf3.truefiling.com/register>.

(2) **Obligation to Keep Account Information Current.** An EFS user is responsible for all documents filed under the user's registered ID and password. Registered users are required to keep their e-mail address current and may update their e-mail address online via the TrueFiling Web site.

(b) [Format]

(1) Documents filed electronically must be in PDF format, or readily capable of conversion to PDF format while maintaining original document formatting by TrueFiling to permit text searches and to facilitate transmission and retrieval. If the filer possesses only a paper copy of a document, it may be scanned to convert it to a searchable PDF format. It is the filer's responsibility to ensure that any document filed is complete and readable. No single document shall exceed a total file size of 25 MB.

(2) Electronic briefs must comply with the content and form requirements of California Rules of Court, rule 8.204, with the exception of those provisions dealing exclusively with requirements for paper. Electronic bookmarks to each topic heading in the text (as listed in the table of contents) in briefs are required. To the extent reasonably practicable, the court encourages the use of hyperlinks in legal citations to the Westlaw or Lexis legal research database.

(3) **Motions, Writs and Other Original Proceedings.** All motions, writs and other original proceedings (excluding Judicial Council form pleadings) must include electronic bookmarks to each section heading in the text (as listed in the table of contents), and to the first page of any exhibit(s), with the exhibit number

or letter and a description of the exhibit included in the bookmark. All exhibits should be submitted in a single volume if possible, with multiple volumes permitted only to the extent necessary to meet file size limitations in subdivision (b)(1) of this rule. Each page shall be consecutively numbered, starting with the cover page of Volume 1 and ending with the last page of the last volume, including indexes. [Do not use a separate pagination system for indexes within the volumes. The page number does not need to appear on the cover pages and can be suppressed.] Each exhibit volume shall clearly state the volume and page numbers included within that volume and include an index of contents, with a descriptive electronic bookmark including exhibit number or letter, to the first page of each indexed document (e.g., Exhibit 1--First Amended Complaint).

Pleadings and exhibits not properly formatted may be rejected.

(c) [Signatures] A TrueFiling user ID and password is the equivalent of an electronic signature for a registered attorney or party. Any document displaying the symbol “/s/” with the attorney’s or party’s printed name shall be deemed signed by that attorney/party.

(d) [Trial Court Record]

(1) Appendices, Agreed Statements, and Settled Statements. Parties must submit any appendix filed pursuant to California Rules of Court, rule 8.124, any agreed statement filed pursuant to rule 8.134, or any settled statement filed pursuant to rule 8.137 in electronic form. Appendices should be submitted in a single volume if possible, with multiple volumes permitted only to the extent necessary to meet file size limitations in subdivision (b)(1) of this rule. If multiple volumes are required, they shall be consecutively paginated. Each volume shall clearly state the volume and page numbers included within that volume and include an index of contents, with a descriptive electronic bookmark, to the first page of each indexed document. Appendices exceeding 10 volumes should be delivered to the court on machine readable optical media in lieu of e-filing. A party submitting such an appendix shall file a notice of lodging via TrueFiling.

(2) Administrative Records. In addition to any administrative record provided by the trial court pursuant to California Rules of Court, rule 8.123, the party or parties seeking review must submit a copy of the administrative record in electronic form. An administrative record may be delivered to the court on machine readable optical media in lieu of e-filing.

(3) Reporter’s Transcripts. Any party who orders a reporter’s transcript of proceedings pursuant to California Rules of Court, rule 8.130, must also request a copy of the transcript in computer-readable format, as provided in Code of Civil

Procedure section 271, subdivision (a), and submit an electronic copy to the Court. Should the reporter's transcript exceed the size limitations in subdivision (b)(1) of this rule, a party must either (i) submit the transcript in multiple parts, or (ii) provide the Court with the transcript in digital format on machine readable optical media.

(4) Submissions by the Trial Court.

(i) To the extent that a trial court is able to do so, the court shall submit the clerk's transcript and/or the reporter's transcript(s) in searchable PDF format, either through the TrueFiling system or a court provided portal, in lieu of paper copies otherwise required under the California Rules of Court, and make electronic versions available to parties willing to accept them in lieu of paper copies. One paper copy, in addition to any electronic copy, must be provided to an indigent criminal defendant or his/her counsel. Digital copies of clerk's transcripts and reporter's transcripts must comply with the California Rules of Court.

(ii) Notwithstanding subpart (4)(i) above if, prior to January 1, 2023, a trial court or the court's official reporter or reporter pro tempore lacks the technical ability to use or store a clerk or reporter's transcript in electronic form as prescribed in section 271 of the Code of Civil Procedure and the California Rules of Court, the trial court may provide advance notice of this fact to the Clerk of the Court and may file a paper original of the record or portion of the record that it cannot file electronically. If the proceedings in an action are transcribed by multiple court reporters, those who can deliver transcripts in electronic form must do so, while those who cannot, must notify this court before providing paper copies. All reporters who work on a single action must coordinate with each other to ensure that all transcripts, electronic and paper, are numbered sequentially.

(iii) In the event a paper original of the reporter's transcript is filed with the court and the transcript was produced with computer aided transcription equipment, upon notice by the court made within 120 days of the filing or delivery of the paper transcript, the official reporter or official reporter pro tempore shall provide an electronic copy of the transcript in full text-searchable PDF format.

(e) **[Personal Identifiers and Privacy Issues]** To protect personal privacy, parties and their attorneys must not include, or must redact where inclusion is necessary, personal identifiers such as social security numbers, driver's license numbers, and financial account numbers from all pleadings and other papers filed in the Court's public file, whether filed in paper or electronic form, unless otherwise provided by law or

ordered by the Court. (Cal. Rules of Court, rule 1.201(a).) If an individual's social security number is required in a pleading or other paper filed in the public file, only the last four digits of that number shall be used. If financial account numbers are required in a pleading or other paper filed in the public file, only the last four digits of these numbers shall be used. Particularly sensitive confidential information such as medical records and proprietary or trade secret information should be filed only under seal as required by law or authorized pursuant to the California Rules of Court.

The responsibility for excluding or redacting identifiers from all documents filed with the Court rests solely with the parties and their attorneys. (Cal. Rules of Court, rule 1.201(b).) Neither TrueFiling nor the Clerk of the Court has any responsibility to review pleadings or other papers for compliance.

(f) [Filing Deadlines] Filing documents electronically does not alter any filing deadlines. In order to be timely filed on the day they are due, all electronic transmissions of documents must be completed (i.e., received completely by the Clerk of the Court) prior to midnight. Where a specific time of day is set for filing by Court order or stipulation, the electronic filing shall be completed by that time. Although EFS permits parties to submit documents electronically 24 hours a day, users should be aware that telephone or online assistance may not be available outside of normal Court business hours.

(g) [Completion of Filing] Electronic transmission of a document through TrueFiling in compliance with the California Rules of Court shall, upon confirmed receipt of the entire document by the Clerk of the Court, constitute filing of the document for all purposes.

(h) [Technical Failure/Motions for Late Filing] If a filer fails to meet a filing deadline imposed by Court order, rule, or statute because of a failure at any point in the electronic transmission and receipt of a document, the filer may file the document on paper or electronically as soon thereafter as practicable and accompany the filing with a motion to accept the document as timely filed. For good cause shown, the Court may enter an order permitting the document to be filed *nunc pro tunc* to the date the filer originally sought to transmit the document electronically.

The Clerk of the Court shall deem the EFS system to be subject to a technical failure whenever the system is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon that day. Filings due on the day of a technical failure which were not filed solely due to such technical failure shall be due the next court day. Such delayed filings shall be accompanied by a declaration or affidavit attesting to at least two attempts by the filer to file electronically after 12:00 noon with each attempt at least one hour apart on each day of delay due to such technical failure. The initial point of contact for any practitioner experiencing

difficulty filing a document into the EFS system shall be the toll-free number posted on the TrueFiling Web site.

The Court shall not be responsible for malfunction or errors occurring in electronic transmission or receipt of electronically filed documents.

(i) [Manual Filing] An EFS user may be excused from filing a particular document electronically if (1) it is not available in electronic format; (2) it must therefore be scanned to PDF; and (3) the file size of the scanned document exceeds the limit specified on the EFS Web site. Such a document instead shall be manually filed with the Clerk of Court and served upon the parties in accordance with the statutory requirements and the California Rules of Court applicable to service of paper documents. Parties manually filing a document shall file electronically a manual filing notification setting forth the reason why the document cannot be filed electronically.

(j) [Service] Attorneys or self-represented parties who have registered with TrueFiling to participate in EFS consent to service or delivery of all documents by any other party in a case through the system. (Cal. Rules of Court, rule 8.78.) Orders or other documents generated by the Court will be served only through the EFS or by e-mailed notification. Only self-represented litigants who are not registered EFS users will receive manual service or notification by other means.

(k) [Filing fees] TrueFiling is a private vendor under contract with the Court. TrueFiling will assess vendor fees for each filing in accordance with the schedule posted on its website, as approved by the Court. E-filing fees will be considered recoverable costs under California Rules of Court, rule 8.278(d)(1)(D). TrueFiling is designated as the Court's agent for collection of Court imposed fees where required for any filing, and any associated credit card or bank charges or convenience fees (Cal. Rules of Court, rule 8.78; Gov. Code, § 6159).

Self-represented parties are exempt from the requirement of electronic filing. However, should a self-represented party with a fee waiver opt to file documents electronically, that party is exempt from the fees and costs associated with electronic filing. The persons and entities identified in Government Code section 6103 also are exempt from the fees and costs associated with e-filing.

(l) [Exemptions] Self-represented parties may, but are not required to register for electronic filing, but must comply with this rule and the requirements of TrueFiling if they elect to register.

If this rule causes undue hardship or significant prejudice to any party, the party shall lodge the number of paper copies required by the California Rules of Court without regard to electronic filing, plus an additional unbound paper copy in lieu of the electronic

copy, accompanied by a declaration setting forth facts that support the claim of hardship. Acceptance of the lodged papers for filing will be subject to further order of the Court. When it is not otherwise feasible for a party to convert a document to electronic form by scanning, imaging or other means, the document may be filed in paper form (Cal. Rules of Court, rule 8.71(g)), together with a declaration setting forth the reasons that electronic filing was not feasible.

(m) [Sanctions for Noncompliance] Failure of counsel to timely register or otherwise comply with EFS filing requirements, unless exempted, shall subject counsel to sanctions as may be imposed by the Court.

Rule 13. Oral Argument

(a) **[Option to Waive Argument]** After a case has been briefed and assigned to a judicial panel for resolution, the parties will be notified that they may elect to waive oral argument. The court attaches no significance to waiving argument, and it understands that oral argument may be unnecessary when the parties' positions have been fully briefed.

(b) **[Notice and Procedure]** If any party timely elects to proceed with oral argument, the court will notify the parties of the time and date of the argument. The oral argument will be conducted in accordance with the California Rules of Court.

(c) **[Time]** The amount of time allocated for each side to present oral argument may vary. Normally, the parties should plan on being allocated 15 minutes per side, although the court may expand or shorten this time before or at the oral argument.

(d) **[Sharing Argument Time]** In cases in which two or more parties have interests that are aligned, i.e., are on the same side, those parties shall confer before the oral argument on how they prefer to share their side's time during the oral argument. Multiple attorneys who share time should avoid repeating arguments made by other attorneys.

(e) **[Oral Argument Dates]** The court maintains a list of the currently scheduled oral argument dates for each division. The list is available on the court's web site at <<http://www.courts.ca.gov/11245.htm>>. The dates on the list are tentative and parties and their counsel should always verify them with the clerk of the division to which a case is assigned.

(f) **[Recording of Oral Argument]** The court records all oral arguments, including oral arguments presented by telephone conference call. A request for oral argument by telephone will be deemed consent to such recording.

Rule 14. Oral Argument by Teleconference

(a) **[Teleconference Availability]** Counsel or self-represented litigants may elect to present oral argument by telephone instead of personally appearing in court. Oral arguments by telephone will be heard by the justices while they are in public session in the courtroom.

(b) **[Option of Counsel or Party Without Counsel]** The decision whether to present oral argument by telephone or in person is within the discretion of counsel or self-represented litigants, except that the court may direct counsel or self-represented litigants to appear in person.

(c) **[Election]** Counsel or self-represented litigants shall indicate any election to present oral argument by telephone when oral argument is requested. If one party elects to argue by telephone and the other elects to appear in person, the party who elected to argue by telephone may change his or her mind and appear in person, but he or she must promptly inform the divisional deputy clerk and the opposing parties.

(d) **[Necessary Information]** An election to present oral argument by telephone shall be made in writing and shall contain the following information: (1) the number and title of the case; (2) the name of the person who will present oral argument by telephone; (3) if that person is an attorney, the name of the party whom he or she is representing; and (4) the telephone number to be used for the telephone conference call.

(e) **[Fees]** No fee shall be charged for an election to present oral argument by telephone that is made by appointed counsel, the Attorney General, counsel representing the state, a county, a municipality or other government agency, or a party whose fees have been waived under California Rules of Court, rule 8.26. In all other cases, a fee of \$20 shall be paid by each party who elects to present oral argument by telephone. A check in that amount, payable to the "Clerk, Court of Appeal," shall accompany the party's request for oral argument.

(f) **[Notice of Time of Oral Argument]** When counsel or parties elect to present oral argument by telephone, the divisional deputy clerk shall provide notice of the date, the approximate time of oral argument, and may indicate the maximum amount of time the court will allow for argument. The deputy clerk will arrange the conference call when the court calls the case for argument. If counsel or a self-represented litigant fails to be available when the case is called, the court may deem oral argument waived.

Rule 15. Focus Letters and Tentative Opinions

(a) **[Focus Letters]** Panels may issue focus orders or letters in cases scheduled for oral argument. These orders or letters are issued before argument, and they notify the parties about particular issues the panel is interested in discussing.

(b) **[Tentative Opinions]** Panels may, on occasion and in their sole discretion, issue tentative opinions in cases scheduled for oral argument. Any such tentative opinion will be issued before the argument, and the parties will be notified that the court is prepared to rule along the lines indicated in the tentative opinion. The oral argument will remain calendared unless all parties, within a period designated by the panel, notify the clerk that it is no longer desired.

(1) If all parties notify the clerk that oral argument is no longer desired, the substance of the tentative opinion will be reflected in the court's final opinion, provided however that if, for any reason, the panel subsequently contemplates a substantial change in the analysis or disposition, the parties will be so notified and given the opportunity to request oral argument.

(2) If all parties do not notify the clerk that oral argument is no longer desired, oral argument will proceed as calendared and the views expressed in the tentative opinion will be subject to change.

Rule 16. New Authority Prior to Oral Argument

Parties submitting a letter of new authorities prior to oral argument under California Rules of Court, rule 8.254 must submit the letter when the authorities become available and as far in advance of any scheduled oral argument as possible. No argument or further discussion of those authorities is permitted in the letter.

Rule 17. Electronic Devices in the Courtroom

Counsel and self-represented litigants may use laptop computers and electronic tablets to aid them in taking notes and presenting oral argument, but they may not use them for any other purpose, including displaying demonstrative evidence. Electronic devices must be silenced at all times. No cellular telephones or other electronic devices are permitted in the courtroom, except for use as assisted-listening devices. No audio or video recording or photography is permitted in the courtroom, except in compliance with California Rule of Court, rule 1.150. Failure to comply with these restrictions may result in the violator being removed from the courtroom.

Rule 18. Media Coverage of Oral Argument

A request to photograph, record, or broadcast an oral argument must comply with California Rules of Court, rule 1.150 and be approved by written order of the presiding justice of the division to which a case is assigned.

Rule 19. Abbreviated Opinions

In accordance with Standard 8.1 of the Standards of Judicial Administration, a memorandum or other abbreviated form of opinion may be issued in causes that (1) are determined by a controlling statute not challenged as unconstitutional and not presenting a substantial question of interpretation or application, (2) are determined by a controlling decision that does not require a reexamination or clarification of its principles or holdings, or (3) raise factual issues that are resolved by the substantial-evidence rule.

Rule 20. Circuit-riding Sessions

The court will conduct its sessions in its courtroom in San Francisco, except that sessions may occasionally be held at educational institutions or elsewhere within the district.

Rule 21. Parties' Obligation to Notify Court of Bankruptcy Stays

(a) **[Conditions for Giving Notice]** Any party to a matter pending before this court who is aware of a bankruptcy that could cause or impose a stay of proceedings in this court must promptly give notice of such bankruptcy, as set forth below.

(b) **[Procedure for Notice]** The notice required by subdivision (a) shall be filed with the court and served on all parties and shall include (1) a copy of the most recent order of the bankruptcy court and of any stay order issued by that court and (2) an explanation of whether a stay order or an automatic stay is in effect and why the stay applies to the pending appeal or writ proceeding. Any party disputing the notifying party's documentation or explanation shall promptly serve and file an opposing statement.

(c) **[Status Reports]** On the first court days of January, April, July, and October, the debtor or other party for whose benefit a stay of proceedings in this case has been taken must serve and file brief status reports informing the court of the status of the bankruptcy.

(d) **[Notice to Proceed]** Any party may, at any time, serve and file notice of any circumstances or orders permitting the stay of proceedings in this court to end, including evidence that the bankruptcy stay has been lifted, the bankruptcy proceeding has been dismissed, or the party has obtained relief from the stay.